

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

REBECCA LYNN SCHAEFER,)	
)	
Plaintiff,)	
)	
vs.)	No. 16 cv 11395
)	
LAWRENCE DEGARD and S. AND H.)	
TRANSPORTATION, INC., a Missouri Domestic)	
Corporation,)	
)	
Defendants.)	

MOTION TO ENFORCE SETTLEMENT AGREEMENT

NOW COME Defendants, LAWRENCE DEGARD (“Degard”) and S. AND H. TRANSPORTATION, INC. (“S. AND H.”) (collectively “Defendants”), by their attorneys, ORLEANS CANTY NOVY, LLC, and as and for their Motion to Enforce the Settlement Agreement, state as follows:

1. That Plaintiff, REBECCA LYNN SCHAEFER (“Plaintiff”) commenced an action against the above-referenced Defendants on or about October 5, 2016 by filing Plaintiff’s Complaint in the Sixth Municipal District of the Circuit Court of Cook County, Illinois, under case number 16 M6 9011, which was later transferred to this Court pursuant to diversity jurisdiction.
2. On August 10, 2018, Plaintiff demanded \$75,000.00, inclusive of costs, to resolve this action against the Defendants.
3. On August 13, 2018, the Defendants accepted Plaintiff’s demand, and the parties agreed to the full release of all claims against the Defendants.

4. On August 15, 2018, Defendants sent a Release of All Claims and Release of Attorney's Lien (the "Releases") to Plaintiff for execution by same. Plaintiff has since executed and returned the Settlement Release of All Claims. See executed Release attached hereto as Exhibit A.

5. However, there are multiple liens on Plaintiff's award, including from 1. Advanced Physicians; 2. Athletico; 3. Hospital Reimbursement Services/Franciscan Alliance Munster; 4. 21st Century Insurance (MedPay); 5. Presence St. Joseph Medical Center; 6. Associated Radiologists – Joliet; 7. Indiana Medicaid; and 8. Health and Family Services (AllKids).

6. Defense Counsel has made multiple requests for Plaintiff's counsel to execute a Rule 2301 correspondence agreeing to hold all liens in Plaintiff's client trust account until resolution of said liens so that the settlement check can be distributed. Alternatively, Defense counsel would accept lien releases from each lien holder.

7. As of the date of this Motion, Plaintiff's counsel has failed to provide any such documentation confirming resolution of said liens.

8. Moreover, Plaintiff's counsel has refrained from agreeing to enter a Stipulation to Dismiss and Dismissal Order pursuant to the settlement agreement.

9. Defense counsel cannot distribute the settlement funds until it receives confirmation that the liens are resolved and the case is dismissed.

10. Plaintiff's failure to timely resolve said liens and enter a dismissal order is needlessly wasting Defendants time and money and keeps this case remaining on the Court docket.

11. A copy of this Motion was sent to Plaintiff's counsel prior to filing.

WHEREFORE, Defendants, LAWRENCE DEGARD and S. AND H. TRANSPORTATION, INC., respectfully request this Honorable Court to:

- a. Compel Plaintiff's Counsel to Execute Rule 2301 Correspondence agreeing to "hold the full lien amounts in Rebecca Schaefer's client fund account for the following third-party interests: 1. Advanced Physicians; 2. Athletico; 3. Hospital Reimbursement Services/Franciscan Alliance Munster; 4. 21st Century Insurance (MedPay); 5. Presence St. Joseph Medical Center; 6. Associated Radiologists – Joliet; 7. Indiana Medicaid; 8. Health and Family Services (AllKids); and any and all other known liens."
- b. Award Defendants reasonable attorney's fees for having to bring this motion.
- c. Dismiss this case with prejudice pursuant to settlement.
- d. Grant such further and additional relief as this Honorable Court deems just and proper under the circumstances.

Respectfully submitted,
LAWRENCE DEGARD and S. AND H.
TRANSPORTATION, INC.,
Defendants.

By: /s/ Bradley A. Bertkau
One of Their Attorneys

Bradley A. Bertkau
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RELEASE OF ALL CLAIMS

Claim No.: G48248

That the Undersigned, REBECCA SCHAEFER, an unmarried woman, does hereby acknowledge receipt of Seventy-Five Thousand Dollars and 00/100 (\$75,000.00) which sum is accepted in full compromise settlement and satisfaction of, and as sole consideration for the final release and discharge of, all actions, claims and demands whatsoever, that now exist, or may hereafter accrue, against LAWRENCE DEGARD, S&H TRANSPORTATION, INC., GREAT WEST CASUALTY COMPANY, AND THE LAW FIRM OF ORLEANS CANTY NOVY, LLC, and any other person, corporation, association or partnership charged with responsibility for injuries to the person and property of the Undersigned, and the treatment thereof and the consequences flowing therefrom, as a result of an accident, casualty or event which occurred on or about the 31st day of October, 2014 at or near 527 W. 14th Street, Chicago Heights, Cook County, Illinois, for which the Undersigned claims the above-named persons or parties are legally liable in damages; which legal liability and damages are disputed and denied, and;

The Undersigned warrants that no promise or inducement has been offered except as herein set forth; that this Release is executed without reliance upon any statement or representation by the persons or parties released, or their representatives, or physicians concerning the nature and extent of the damages and/or legal liability therefore; that the Undersigned is of legal age, legally competent to execute this Release and accept full responsibility therefore, and; furthermore, it is agreed that the Undersigned will reimburse any lien holder, known or unknown, for any liens as a result of the above incident (including but not limited to 1. Advanced Physicians; 2. Athletico; 3. Hospital Reimbursement Services/Franciscan Alliance Munster; 4. 21st Century Insurance (MedPay); 5. Presence St. Joseph Medical Center; 6. Associated Radiologists - Joliet; 7. Indiana Medicaid; 8. Health and Family Services; 9. AllKids. In the event that outstanding liens are not satisfied, the Undersigned agrees to discharge, defend, indemnify and hold harmless the persons or parties released of and from any and all said liens, including attorney fees, costs and expenses, incurred as a part of the enforcement of said liens.

The Undersigned agrees as further consideration and inducement for this compromise settlement, that it shall apply to all unknown and unanticipated damages resulting from said accident, casualty or event, as well as to those now disclosed, and;

The Release expressly reserves all rights of the parties released to pursue their legal remedies, if any, against the undersigned, their heirs, executors, agents and assigns.

The Undersigned attests that REBECCA SCHAEFER is not currently receiving any Medicare benefits, has not applied for Medicare benefits, and does not plan to apply for Medicare benefits within the next thirty (30) months, and further attests that Medicare and Medicaid has not paid for any medical expenses arising from the alleged injury. The Undersigned and his legal representative, if any, are aware of and understand the law known as the Medicare Secondary Payer Statute (Statute) found at 42 U.S.C. 1395y, and agree to comply with this Statute and all related laws and regulations regarding the payment of any past and future medical expenses arising from the alleged injury. Additionally, the Undersigned agrees to indemnify, defend and hold harmless the released parties from any claim for reimbursement, double damages, penalties, fines and attorney fees relating to a governmental entity asserting such claims under this Statute or any related federal or state laws.

The Undersigned attests that REBECCA SCHAEFER's valid social security numbers is: REBECCA SCHAEFER: 324-64-5214.

The Undersigned acknowledges that REBECCA SCHAEFER's damages may be more severe or serious than he now experiences or anticipates, and that he may have suffered further damages which do not now exhibit themselves and that a portion of the consideration paid by those released herein to the undersigned shall operate as a final release and discharge of all such presently unknown and unanticipated damages resulting from said accident, casualty or event, as well as those now disclosed.

For your protection, and if applicable to you, California law requires the following to appear on this form. Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison. Any person who knowingly presents a false or fraudulent claim for the payment of a loss is guilty of a crime and may be subject to fines and confinement in state prison.

Signed on 10 of September 2018.

Witness:

Lyle Mawson

CAUTION: READ BEFORE SIGNING

Rebecca S. Schaefer
REBECCA SCHAEFER

STATE OF ILLINOIS)
COUNTY OF COOK)ss

On this 10 day of September, 2018, before me appeared REBECCA SCHAEFER to me personally known, and who acknowledged the execution of the foregoing instrument as her free act and deed, for the consideration set forth therein.

My Term Expires:

4/6/22

Mary E Benefield
NOTARY PUBLIC

MARY E BENEFIELD
Official Seal
Notary Public - State of Illinois
My Commission Expires Apr 6, 2022